



# Town of Simsbury

933 HOPMEADOW STREET

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

*Thomas F. Cooke - Director of Administrative Services*

## BOARD OF SELECTMEN MEETING AGENDA SUBMISSION FORM

1. **Date of submission: October 25, 2013, 2013**
2. **Date of Board Meeting: October 28, 2013**
3. **Individual or Entity making the submission: Hiram Peck, Director of Planning**
4. **Action requested of the Board of Selectmen (Acceptance of gift, creation of reserve, approval of contract, information only, etc. Be as specific as possible with respect to the desired action of the Board.):**

The Board of Selectmen is requested to set a public hearing date to hear testimony on the revision to Section 123-7 of the Simsbury Code of Ordinances, and subsequently to adopt the attached revisions to Section 123-7 Simsbury Code of Ordinances as proposed by the Town Attorney.

5. **Individual(s) responsible for submission (Please include complete contact information. The identified individual(s) should be prepared to present information to the Board of Selectmen at the Board Meeting.):**

Hiram Peck, Director of Planning and Community Development for the Simsbury Zoning Commission.

6. **Summary of Submission (Include in your summary (i) relevant dates and timelines; (ii) parties involved; (iii) a description of financial terms and conditions specifically identifying the financial exposure/commitment of the Town of Simsbury; (iv) whether or not contracts, licenses and other legal documents have been reviewed by the Town's counsel; and (v) other information that will inform the Board of Selectmen's consideration of your submission. Include any additional information in an attached memorandum.):**

This submission includes a revision to the current Simsbury Town Code of Ordinances which will allow for a more expedient process to enter and clean up a blighted property than is currently permitted under the current "Blight Ordinance."

Included are:

- The existing Section 123-7, proposed for public hearing, and
- The proposed revision to Section 123-7 as proposed by the Town Attorney and recommended for adoption by the BOS after the duly noticed and conducted public hearing.

7. **Description of documents included with submission (All documents must be in final form and signed by the appropriate party.):**

*The following documents are included with this submission and attached hereto:*

Attachments include:

- The existing Section 123-7, proposed for public hearing, and
- The proposed revision to Section 123-7 as proposed by the Town Attorney and recommended for adoption by the BOS after the duly noticed and conducted public hearing.

Thank you for your consideration of this matter.

in person or mail, of written notice within 10 days of the date thereof;

(c) That if he or she does not demand a hearing, an assessment and judgment shall be entered against him or her; and

(d) That such judgment may issue without further notice.

(2) All notices and hearings related to such citations shall be given and held, respectively, in accordance with the citation hearing procedures set forth in state law.

E. Any property owner or other person who receives a citation pursuant to this chapter has the right to request a hearing before the Hearing Officer by delivering, by hand delivery or mail, written notice of such request within 10 days of the date of the notice of blighted or unsafe premises. If the property owner or other responsible person requests a hearing, the Blight Prevention Officer shall set written notice, by certified mail, of the date, time and place for the hearing. Such hearing shall be held 15 to 30 days from the date of the mailing of the notice of such hearing.

F. The Hearing Officer shall conduct the hearing in the form and with the methods of proof as he or she deems fair and reasonable, in accordance with the hearing procedures for citations specified in state law. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation.

G. The Hearing Officer shall issue a written decision following the conclusion of the hearing. If he or she determines that the subject property owner or other person having lawful possession or control is not liable, the Hearing Officer shall dismiss the matter and enter the determination, in writing, accordingly. If the Hearing Officer determines that the subject property or other person having lawful possession or control owner is liable, he or she shall enter the determination, in writing, accordingly, and assess the relevant fines, penalties, costs or fees that are provided for in this chapter.

H. Any fine which is unpaid 30 days after it is imposed shall constitute a lien upon the real estate agent against which the fine was imposed from the original date of imposition.

EXISTING

§ 123-7. Correction of violation by Town.

In the event any owner, agent, tenant or person in control of real property shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant, or person in control of real property to appeal from the issuance of such citation, or by such appeal being sustained, the Town of Simsbury, acting through its Blight Prevention Officer, may cause or take such action as is necessary to correct such violation. The cost to take such action shall be

# EXISTING

Town of Simsbury  
PC/Codebook for Windows

a civil claim by the Town against such owner, agent, tenant, or person responsible for such property, and the Town Attorney may commence an action on behalf of the Town of Simsbury to recover all costs, expenses and fees, including attorney's fees, incurred by the Town relating to the violation.

## Chapter 128, SEDIMENT AND EROSION CONTROL

[HISTORY: Adopted by the Board of Selectmen of the Town of Simsbury 7-11-1979.  
Amendments noted where applicable.]

### GENERAL REFERENCES

Flood damage prevention -- See Ch. 94.

#### § 128-1. Legislative findings.

It has been clearly demonstrated that the soil and vegetation of the Town of Simsbury are valuable natural resources, the preservation of which is essential for control and protection of surface and underground waters. To protect the soil, vegetation, watercourses and aquifers of the Town of Simsbury is essential to the public health, safety and welfare.

#### § 128-2. Purpose.

It is the policy of the Town of Simsbury to prevent within the town soil erosion and sedimentation on any land which is used in a manner which exposes earth materials to erosion, and to provide, as soon as possible, for the restoration of the exposed areas to their prior condition.

#### § 128-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EROSION -- Loss of soil materials by action of gravity, wind or moving water.

EXCAVATION -- Digging, burrowing, removing and/or relocation of soil materials.

GRADING -- Shaping or changing the contours of the land surface.

SEDIMENT -- Soil materials that are in suspension, are being transported or have been moved from their site of origin by water or wind.



III MERITAS LAW FIRMS WORLDWIDE

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October 25, 2013

Mary A. Glassman  
First Selectman  
Town of Simsbury  
933 Hopmeadow Street  
Simsbury, CT 06070

Re: Amendment to Code of Ordinances §123-7

Dear Mary:

Enclosed please find a draft amendment to Section 123-7 of the Simsbury Code of Ordinances. This amendment allows the Town to enter private property for blight remediation where the property owner ignores or fails to comply with the Town's remediation order. The authority for this revision is found in General Statutes §7-148ff.

The Board of Selectmen needs to set a date and time for a public hearing on the proposed amendment to Ordinance Section 123-7.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'R. DeCrescenzo', written over a printed name.

Robert M. DeCrescenzo, Esq.

Updike, Kelly & Spellacy, P.C.

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# PROPOSED

TOWN OF SIMSBURY  
BOARD OF SELECTMEN  
AMENDMENT TO CODE OF ORDINANCES  
SECTION 123-7

1. Code of Ordinances Section 123-7 is hereby repealed and the following revised Section 123-7 is hereby adopted in lieu thereof.

**§ 123-7. Correction of Violation by Town.**

(a) Pursuant to General Statutes §7-148ff, in the event any owner, agent, tenant or person in control of real property shall fail to abate or correct any violation specified in any notice, after the issuance of an enforcement citation for such failure, which citation has become final through the failure of such owner, agent, tenant, or person in control of real property to appeal from the issuance of such citation, or by such appeal being sustained, the Town of Simsbury, acting through its Blight Prevention Officer, may cause or take such action as is necessary to correct such violation. Such Blight Prevention Officer, or his or her agent, may enter the property during reasonable hours for the purpose of remediating blighted conditions, provided such officer or agent shall not enter any dwelling house or other structure. The cost to take such action shall be subject to a lien against the real property of the owner pursuant to General Statutes §49-73b and shall be a civil claim by the Town against such owner, agent, tenant, or person responsible for such property, and the Town Attorney may commence an action on behalf of the Town of Simsbury to recover all costs, expenses and fees, including attorney's fees, incurred by the Town relating to the violation.

(b) The Blight Prevention Officer shall give notice of the determination that the right of entry is authorized. Notice shall be sent by certified mail, return receipt requested to the last known address of the property owner. Said notice shall give the property owner no less than ten (10) days from the date of the notice to remedy the blighted condition prior to the exercise of the right of entry.

(c) As set forth in General Statutes §7-148ff, there is a board established consisting of the Blight Prevention Officer, the Finance Director and the Tax Assessor to determine when the exercise of the right of entry for a particular property is authorized under this section.

2. This section shall take effect twenty-one (21) days from its adoption.

Public Hearing Date: \_\_\_\_\_  
Adoption Date: \_\_\_\_\_  
Filed with the Town Clerk: \_\_\_\_\_  
Town Clerk Attest: \_\_\_\_\_